

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Adv. Pro. No. 08-01789 (CGM)

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

SIPA LIQUIDATION

(Substantively Consolidated)

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Adv. Pro. No. 12-01670 (CGM)

Plaintiff,

v.

CRÉDIT AGRICOLE CORPORATE AND
INVESTMENT BANK D/B/A CRÉDIT
AGRICOLE PRIVATE BANKING MIAMI,
F/K/A CALYON S.A. D/B/A CRÉDIT
AGRICOLE MIAMI PRIVATE BANK,
SUCCESSOR IN INTEREST TO CREDIT
LYONNAIS S.A.,

Defendant.

STIPULATION AND ORDER TO WAIVE ARGUMENT

Irving H. Picard (the “Trustee”), as trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–III, and the estate of Bernard L. Madoff, individually, and defendant Crédit Agricole Corporate and Investment Bank d/b/a Credit Agricole Private Banking Miami (“Crédit Agricole Miami,” and collectively with the Trustee, the “Parties,” each a “Party”), by and through their respective, undersigned counsel, hereby stipulate and agree as follows:

WHEREAS, on July 18, 2022, Crédit Agricole Miami filed a motion to dismiss the Trustee's complaint (the "Motion"), ECF No. 62, with a supporting declaration and memorandum of law, ECF Nos. 63–64;

WHEREAS, on September 30, 2022, the Trustee filed an opposition to the Motion, ECF No. 69, with a supporting declaration, ECF No. 70;

WHEREAS, on October 31, 2022, Crédit Agricole Miami filed a reply in further support of its Motion, ECF No. 72 (the "Reply");

WHEREAS, pursuant to a notice of hearing, ECF No. 65, which was subsequently adjourned, ECF No. 73, the Court scheduled a hearing to consider the Motion to be held on January 18, 2023, at 10:00 A.M.;

WHEREAS, the Parties have met and conferred and have agreed to rest on their papers and waive oral argument on the Motion; and

WHEREAS, in connection with waiving argument, the Trustee respectfully requests that the Court also consider its recent opinion in the matter styled *Picard v. Standard Chartered Financial Services (Luxembourg) S.A. (f/k/a American Express Financial Services (Luxembourg) S.A.)*, Adv. Pro. No. 12-01565 (CGM) (Bankr. S.D.N.Y. 2012), ECF No. 168 (the "Standard Chartered Opinion") as subsequent authority issued after the close of briefing on the Motion in the above-captioned matter with respect to Crédit Agricole Miami's assertion of the mere conduit affirmative defense and request for conduit protocol as set forth in the Reply, and Crédit Agricole Miami takes no position on the foregoing request.

IT IS HEREBY STIPULATED AND AGREED, by the Parties, and **SO ORDERED**, by the Court:

1. The Parties have agreed to rely on the papers submitted in support of and opposition to the Motion.

2. The Trustee references and relies on the Court's recent holding provided in the *Standard Chartered* Opinion with respect to Crédit Agricole Miami's assertion of the mere conduit affirmative defense and request for conduit protocol as set forth in the Reply.

3. The Court will cancel the oral argument on the Motion scheduled for January 18, 2023, at 10:00 A.M.

4. The Parties otherwise reserve all rights, arguments, objections, and defenses they may have, and entry into this Stipulation shall not impair or otherwise affect any such rights, arguments, objections, and defenses.

Dated: January 12, 2023
New York, New York

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**Dated: January 13, 2023
Poughkeepsie, New York**

30032486



/s/ Cecelia G. Morris

**Hon. Cecelia G. Morris
U.S. Bankruptcy Judge**